will be reduced by $92.50 and the tax payable by the agreed sum of $23.00 which must be refunded to him.

I authorise the publication of the facts of the case, the arguments and the decision without disclosing the name or office of the appellant.

The respondent must pay the appellant's costs of these proceedings both here and before the Board of Review.

Order accordingly.

Solicitors: *Rodyk & Davidson; State Advocate-General.*

SEE YOKE SOON v. REGINA

[A. Cr. J. (Buttrose J.) May 2, 1961]

[Singapore — Magistrate's Appeal No. 305 of 1960]

Merchant Shipping — Vessel number — Charge of "obscuring" the permanent number — Merchant Shipping Ordinance (Cap. 207), ss.419, 462 and 463 — Singapore Port Rules, 1936, r.66(2).

The appellant was convicted on the charge of having "obscured" the permanent number of his motor sampan by covering it with cargoes and "he has thereby committed an offence under r.66(2) of the Singapore Port Rules, 1936 and punishable under section 419(2) of the Merchant Shipping Ordinance (Cap. 207)." The vessel in question was carrying a cargo of 200 drums of oil and as a result of their stacking the number was temporarily hidden from view. There was no suggestion that there was any intentional or deliberate obscurement of the number by the appellant. It was contended for the appellant, *inter alia*, that the rule under which he was charged did not come within the ambit of the section under which the offence could be punished, and that the word "obscure" had been misconstrued.

Held: (1) the rule under which the appellant was charged was made in pursuance of the rule making power contained in section 462 of the Merchant Shipping Ordinance and not in section 419. The offence with which he was charged is punishable under section 463 and not section 419(2) as alleged. The charge therefore was bad in law;

(2) the word "obscured" in r.66(2) of the Singapore Port Rules is used in connection with the words "removed" and "altered" all of which connote a deliberate and intentional concealment of the boat's number. As there was no such intentional or deliberate obscurement of the number by the appellant, he had not committed any offence under r.66(2).

MAGISTRATE'S CRIMINAL APPEAL.

G. Murugaiyan for the appellant.

A. W. Ghows (Senior Crown Counsel) for the respondent.

Buttrose J. (delivering oral judgment): This is an appeal from a decision of the Magistrate's Court convicting the appellant of the offence of obscuring the permanent number of his motor sampan No. SC. 9887 by covering it with cargo under Rule 66(2) of the Singapore Port Rules 1936 and imposing a fine of $25.00 under section 419(2) of the Merchant Shipping Ordinance (Chapter 207).

The rule under which the appellant was charged was made in pursuance of the rule making power contained in section 462 of the Merchant Shipping Ordinance and not in section 419. The offence with which the appellant was charged is punishable under section 463 and not section 419(2) as alleged. The charge therefore is bad in law.

In the second place the word "obscured" in Rule 66(2) is used in association with the words "removed" and "altered" all of which connote a deliberate and intentional concealment of the boat's number.

It was not suggested in the present case that there was any intentional or deliberate obscurement of the number by the appellant. The motor sampan was carrying a cargo of 200 drums of oil and as the result of their stacking the number was temporarily hidden from view. Once the drums were off-loaded the number could be clearly seen.

In the particular circumstances of this case the appellant has not, in my judgment, committed any offence under Rule 62(2).

The appeal must be allowed and the conviction and sentence quashed. The fine of $25.00 if paid must be refunded to the appellant.

Appeal allowed.

Solicitors: *Marshall & Chung.*

TEO KIM HUI v. REGINA

[A. Cr. J. (Buttrose J.) May 2, 1961]

[Singapore — Magistrate's Appeal No. 265 of 1960]

Criminal Law and Procedure — Jurisdiction — Criminal District Court — Penal Code, s.397 — Criminal Procedure Code (Cap. 132), ss.8 and 10.

The appellant appeals against the decision of the Criminal District Court convicting him of an offence under section 397 of the Penal Code and of imposing a sentence of 3 years' imprisonment. It was argued for the appellant (on a preliminary point) that the trial was a nullity in view of sections 8 and 10 of the Criminal Procedure Code.

Held: as the essential prerequisites provided by sections 8 and 10(1) were not fulfilled in this case, the District Court had no jurisdiction to try the appellant on the charge of armed robbery.

MAGISTRATE'S APPEAL.

David Marshall for the appellant.

A. W. Ghows (Senior Crown Counsel) for the respondent.

Buttrose J. (delivering oral judgment): This is an appeal from a decision of the Criminal District Court convicting the appellant of the offence of armed robbery under section 397 of the Penal Code and imposing a sentence of 3 years imprisonment.

A preliminary point was taken by counsel for the appellant that the trial was a nullity in that the District Court had no jurisdiction to try the appellant on a charge under section 397 of the Penal Code because of the provisions of sections 8 and 10 of the Criminal Procedure Code.